



County of Los Angeles CHIEF EXECUTIVE OFFICE

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SACHI A. HAMAI
Interim Chief Executive Officer

January 22, 2015

To: Mayor Michael D. Antonovich
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe

From: Sachi A. Hamai
Interim Chief Executive Officer

Mark J. Saladino
County Counsel

Board of Supervisors
HILDA L. SOLIS
First District

MARK RIDLEY-THOMAS
Second District

SHEILA KUEHL
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

JOINT REPORT OF THE CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND COUNTY COUNSEL LITIGATION COST MANAGER REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2013-14 AND GOALS FOR FISCAL YEAR 2014-15

Pursuant to an October 16, 2007 motion by Supervisor Molina, the Board instructed the Chief Executive Officer (CEO) County Risk Manager and County Counsel Litigation Cost Manager to prepare a joint report identifying specific accomplishments during Fiscal Year (FY) 2007-08 that supported the efforts of risk management and reduction of the County of Los Angeles (County) exposure to litigation. Pursuant to the motion, the report is also to identify joint goals and objectives for subsequent fiscal years.

In addition, on November 5, 2008, on a motion by Supervisor Molina and as amended by Supervisor Antonovich, the Board directed the CEO, County Counsel, County Risk Manager, and other Department Heads, as appropriate, to: create a Legal Exposure Reduction Committee (LERC) that shall meet quarterly; establish an annual Countywide and departmental legal exposure reduction goal; create proactive County Counsel procedures to advise departments on various methods to reduce legal costs; create procedures to discuss areas of potential exposure; develop and implement specific strategies calculated to prevent future claims and lawsuits; provide updated training on new changes in laws and policies for each appropriate department to implement; assess the efficacy of corrective action plans; review management training and implementation of County policies; review lessons learned; discuss areas of potential exposure; and report annually on their progress and efforts.

"To Enrich Lives Through Effective And Caring Service"

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The attached Joint Report responds to both of these directives as the LERC's activities represent one of the joint efforts between the CEO and County Counsel. Identified in the report are joint accomplishments of FY 2013-14, LERC's activities for FY 2013-14, and goals for FY 2014-15 demonstrating the continued, collaborative efforts of the CEO and County Counsel to manage the County's risks and to reduce its litigation exposure.

If you have any questions or need additional information, your staff may contact Steven T. Robles, County Risk Manager, at (213) 351-5346, or Steven H. Estabrook, Litigation Cost Manager, at (213) 974-1762.

SAH:MJS:BC
STR:SHE:sg

Attachment

c: All Department Heads

**JOINT REPORT
CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND
COUNTY COUNSEL LITIGATION COST MANAGER
REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2013-14
AND GOALS FOR FISCAL YEAR 2014-15**

I. JOINT ACCOMPLISHMENTS OF FISCAL YEAR 2013-14

REORGANIZATION OF THE LEGAL EXPOSURE REDUCTION COMMITTEE

The Chief Executive Office (CEO) County Risk Manager and the County Counsel Litigation Cost Manager view the Legal Exposure Reduction Committee (LERC) as their single, most important collaborative endeavor throughout the year. LERC was established in 2008 to formulate an annual Countywide and departmental legal exposure reduction goal, create proactive County Counsel procedures to advise departments on various methods to reduce legal costs, draft procedures and protocols to discuss areas of potential exposure, develop specific strategies calculated to prevent future claims and lawsuits, provide updated training on new changes in laws, assess the efficacy of corrective action plans, review management training and implementation of County of Los Angeles (County) policies, and to report on their progress and efforts. In order to optimize coordinated efforts, the County Risk Manager and Litigation Cost Manager reorganized the LERC Sub-Committees to provide a more cohesive forum for strategic risk advancements by the CEO, County Counsel, and the most active departments, which include:

- Assessor
- Auditor Controller
- Beaches and Harbors
- Board of Supervisors
- Chief Executive Office
- Chief Information Office
- County Counsel
- Children and Family Services
- Fire
- Human Resources
- Internal Services
- Mental Health
- Probation
- Public Health
- Public Works
- Public Social Services
- Sheriff
- Treasurer and Tax Collector

The LERC Sub-Committees' activities and projects are as follow.

1. Best Practices Sub-Committee

Four previous Sub-Committees (Classification Studies, Employment Practices, Training, and Vehicle Liability) were consolidated into the Best Practices Sub-Committee, which is responsible for providing recommendations on best practices for leading trends in losses. Participant departments in this Sub-Committee include:

- Animal Care and Control
- Chief Executive Office
- County Counsel
- Fire
- Human Resources
- Internal Services
- Public Social Services
- Public Works
- Sheriff

Best Practices Sub-Committee (Continued)

Projects include:

- i. *Ergonomics Self-Assessment Software Acquisition.* Repetitive motion injuries associated with computer use are leading frequency and severity drivers for most County departments. The Committee is facilitating the design of ergonomic self-assessment software that will identify at-risk employees so early intervention, training, workstation adjustments, and accommodations can be made, lowering the frequency and severity of claims.
- ii. *Defensive Driver Training.* Driving a vehicle has its inherent risks; therefore, employees who drive for County business should be required to attend/complete defensive driver training and education courses on a regular basis. An effective defensive driver training program teaches students how to overcome mistakes in driving techniques, improve their driving skills, make informed decisions, and anticipate situations while driving. The development of an on-line defensive driver training course is ongoing and will consist of slides, video, narration, and a mandatory assessment upon completion.
- iii. *Fair Labor Standards Act (Overtime) Training/Retraining.* The County has litigated countless claims, including class actions involving unpaid overtime. Although measures were taken to ensure that affected employees received mandatory training on the expectations of reporting overtime worked, it is necessary to ensure that all new employees and new supervisors receive this training as well, and that existing employees receive this training on a regularly-scheduled basis. The Committee is developing the training expectations for County personnel, including course curriculum and schedule of retraining in an effort to minimize the number of potential claims and their severity.
- iv. *Vehicle Telemetry.* Use of vehicle telemetry can reduce losses caused by human error, increase employee safety, and provide for other efficiencies, including fuel savings, operational efficiency through improved maintenance schedules, and recognition of both competent and risky drivers. A pilot project is underway whereby a selected group of County-owned vehicles will be fitted with telemetric equipment and monitored for an established period of time. Results from the pilot project will be analyzed to determine the feasibility of possible implementation in other vehicles in the County's fleet.

2. Disability Management Sub-Committee

The former Workers' Compensation and Return-to-Work Sub-Committee was renamed "Disability Management Sub-Committee," and is responsible for providing recommendations and best practices for all aspects of leave management and the return of employees to work, including, but not limited to, Workers' Compensation, Return-to-Work, and Short-Term/Long-Term Disability. Participant departments in this Sub-Committee include:

- Alternate Public Defender
- Auditor-Controller
- Beaches and Harbors
- Child Support Services
- Children and Family Services
- Coroner
- County Counsel
- District Attorney
- Fire
- Health Services
- Human Resources
- Internal Services
- Mental Health
- Parks and Recreation
- Probation
- Public Defender
- Public Health
- Public Library
- Public Social Services
- Public Works
- Regional Planning
- Sheriff

Projects include:

- i. Disability Management System. An effective case management system will improve the County departments' management of employees off work by promoting consistency, streamlining workflows, facilitating Federal and State law compliance, reducing risks associated with employment lawsuits, and the expenses related to loss-time disability events. Part of the Comprehensive Claims Management System's Request for Proposals (RFP) to be released in FY 2014-15, will be the design and ongoing access to disability management data contained in multiple County systems.
- ii. Outreach/Survey of Employees on Long-Term Leave. The purpose of this project is to gather information from employees who are on long-term leave of absence; and use that information to assist departmental efforts in returning employees to work. Information gathered will also be used to develop strategies to assist employees and departments manage leaves.
- iii. Separation Management. The County's Disability Management Program has various policies and procedures in place to separate employees from their employment when the disability is such that further employment is not possible. The complexity of the laws governing this process exposes the County to significant employment liability. This project will enhance current training, policies, and procedures, in collaboration with departments and various subject matter experts, to foster a fair, consistent, and lowered-exposure separation procedure.

3. Claims and Litigation Management Sub-Committee

This new Sub-Committee is responsible for providing recommendations and best practices for departmental actions, training, and procedures related to all aspects of cost containment. The members work with the CEO, County Counsel, and consultants to formulate consistent oversight from a departmental perspective of the claims and litigation process. Participant departments in this Sub-Committee include:

- Board of Supervisors
- Chief Executive Office
- County Counsel
- Beaches and Harbors
- Fire
- Health Services
- Mental Health
- Public Works
- Treasurer and Tax Collector

Projects include:

- i. Department Survey. As Claims and Litigation Management is a new Sub-Committee, it is proceeding immediately with gathering information from departments concerning their needs. A departmental survey is being designed to gather information via Chief Deputies.
- ii. Claims and Litigation Management Training. Not all County departments have the necessary level of skill and experience to effectively manage claims and litigation. The Sub-Committee is developing claims and litigation management training analogous to the CEO's "Return-To-Work 101" training.
- iii. Standardized Investigation Information Project. Not all County departments provide the same information to the County's Third-Party Administrators and Counsel when submitting investigative information on claims and litigation. This project will develop standardized online forms/templates to enhance information gathering and submission.
- iv. Access to Non-Privileged Departmental Claims/Litigation Data. Part of the Comprehensive Claims Management System's RFP, to be released this year, will be the design and ongoing access to non-privileged claims/litigation data maintained in existing automated systems, and the efficient analysis, monitoring, and reporting of the data toward targeted/focused risk management efforts.

4. Medical Malpractice Sub-Committee

This Sub-Committee remained without change and is responsible for identifying loss trends in the delivery of healthcare and recommending changes to policy and training in an effort to lower frequency and severity related to medical malpractice. Participant departments in this Sub-Committee include:

- Chief Executive Office
- Fire
- Health Services
- Mental Health
- Public Health
- Sheriff

Projects include:

- i. Implementation of the Patient Safety Net (PSN) Web-Based Early Reporting System. PSN is a web-based event-reporting system which serves as the data collection tool and repository for the University Health Consortium Performance Improvement Patient Safety Organization. If an event occurs in a patient care environment that could be unsafe for a patient, employees can enter information into PSN (anonymously or openly) identifying the event and describing the potential patient safety concerns. All reports are sent to the department's management to initiate an evaluation and to identify areas for corrective actions (including education, policy change, equipment change, or punitive action). Corrective actions are recommended by the system depending on the type of incident. Open reporting of risks to patient safety is a key issue in healthcare systems and is strongly encouraged by the Board of Supervisors (Board). On January 14, 2014, the Board approved the implementation of this system for all medical services departments. All medical services departments will be using the same system for the reporting of patient safety/medical services issues in the County. The project is 80 percent complete. The departments of Health Services, Public Health, Probation, and Sheriff are in the process of actively implementing the network. The departments of Fire and Mental Health are next to implement the system in Fiscal Year 2014-15.
- ii. Just Culture Implementation. This project will create a humane and fair evaluation and correction process for human errors in the medical workplace. "Just Culture" has zero tolerance for reckless behavior while recognizing that competent professionals make mistakes and can even develop unproductive norms (shortcuts, "routine rule violations") that need correcting. The Sub-Committee, working closely with industry experts and leadership from the departments of Fire and Health Services, will educate, disseminate, and monitor the effectiveness of the "Just Culture" approach to medical error management. The program will then be offered to other medical service departments' leadership, labor representatives, and other stakeholders to educate and implement.

Medical Malpractice Sub-Committee Projects (Continued)

- iii. Adverse Event Mitigation and Early Settlement Authority Project. “Apologize and Learn When We Are Wrong, Explain and Vigorously Defend When We Are Right, and View Court as a Last Resort.” This is the mantra of the highly-regarded University of Michigan’s approach to medical risk management. This project will create a less adversarial and more humane system for managing medical errors and future possible-related litigation. The Sub-Committee will lead the educational and interpersonal effort to create the trust, comfort, policies, and procedures for a similar approach to risk management. In collaboration with Health Services, this program will be instituted with the following goals:

- Reduce the number of claims and lawsuits;
- Reduce legal costs;
- Reduce severity of claims;
- Shorten opening-to-closing times; and
- Reduce potential insurance costs or premiums.

IMPROVEMENTS TO COMPUTER DASHBOARD

The CEO Risk Management Branch, along with the Internal Services Department, developed an award-winning dashboard in Fiscal Year 2012-13. The dashboard launch was successful due to several collaborative efforts, including advice and support from County Counsel. The following improvements were made and gradually implemented over the last three fiscal years:

- i. Enhanced Charts. Enhanced charts were added to: 1) provide department rankings, including Total Cost of Risk, Workers’ Compensation Claims per 100 Employees, and Workers’ Compensation Expenses per Employee; 2) track County vehicles, including the number of miles claimed by mileage permittees during the fiscal year, and the amount paid for property damage to County vehicles during the fiscal year; and 3) monitor the median number of days from date of knowledge of a claim to the date reported to the third-party administrator.
- ii. Workers’ Compensation Claim Detail Report. The report lists all departmental workers’ compensation claims for a date range selected by the user and has advanced sorting functions.
- iii. User’s Guide. A User’s Guide is enhanced and is now available under the department selection box.
- iv. Estimated Unallocated Loss Adjustment Expenses ("ULAE"). ULAEs have been added to the "Payment by Fiscal Year" table.

BI-MONTHLY MEETINGS

The County Risk Manager and a Senior Assistant County Counsel have a bi-monthly standing meeting to discuss risk management initiatives and collaborative efforts regarding claims, lawsuits, corrective actions, cost control measures, and opportunities available for loss prevention efforts. The County Risk Manager and the Litigation Cost Manager also have a regularly scheduled meeting to discuss cost control measures and loss prevention efforts. In addition, the Litigation Cost Manager also made his annual presentation to the members of the Los Angeles County Management Council regarding management's role in litigation cost control.

INITIATION OF DROBOT RECOVERY

County Counsel and CEO Risk Management Branch's Workers' Compensation Division collaborated to bring to the Board the initiation of litigation to recover funds related to the actions of Dr. Michael Drobot, Sr., who reportedly bribed California State Senator Ron Calderon to preserve California's so-called "spinal-pass-through law," which allowed Dr. Drobot's hospital, Pacific Hospital of Long Beach, to pass on to insurance companies the full cost the hospital paid for medical hardware it used during spinal surgeries – medical hardware that had been provided by companies that Dr. Drobot seemingly controlled at highly inflated prices. Related litigation has been initiated by the State Compensation Insurance Fund for allegedly raising the costs of implants that Pacific Hospital used in surgeries so they could receive higher reimbursements from the State.

RETURN-TO-WORK

County Counsel collaborates with CEO by providing expert advice as to the Americans With Disabilities Act and the Fair Employment and Housing Act, which is utilized in the "*Return-to-Work 101*" training course delivered several times per year to departmental Return-to-Work Coordinators.

SEMINARS

The CEO and County Counsel offer regular seminars on a variety of subjects that include workers' compensation and disability management.

ROUNDTABLES

The CEO, in partnership with County Counsel, annually participates in hundreds of roundtables covering workers' compensation and litigation management.

II. GOALS FOR FISCAL YEAR 2014-15

In Fiscal Year 2014-15, County Counsel and the CEO Risk Management Branch will continue to focus on developing projects through LERC, as described above, *ad hoc* needs, and the following projects:

1. Workers' Compensation Strategic Initiative

As indicated in the Risk Management Annual Report for Fiscal Year 2013-14, the County has approximately \$2.1 billion of long-term workers' compensation liabilities. A coordinated effort among County Counsel, CEO Risk Management Branch, third-party administrators, and County departments will continue the endeavor started in Fiscal Year 2013-14. There are three main components to the initiative:

- i. *Comprehensive Claims Management System*. The County uses several claim management and paper systems to file, store, and report on claims and lawsuits in the County. This project will unify most of the systems and provide stakeholders with a singular system that is configurable to individual user needs and employ advanced analytics to reduce fraud, waste, and abuse.
- ii. *Claim Closure Project*. This Project serves to analyze claims opened in the most recent 20 years to search for opportunities to sever the long-term liability of the County via settlement opportunities.
- iii. *Risk Financing Project*. The County currently funds its liabilities on a "cash pay" basis. This project's goal is to analyze the current model and provide recommendations to deploy alternative strategies to lower long-term liabilities.

SETTLEMENT AUTHORITY AND CORRECTIVE ACTION STUDY

The last delegated authority for liability settlements was instituted in 1982, approximately 30 years before the creation of the CEO Risk Management Branch and the Risk Management Inspector General. This project will include analyzing and providing recommendations on improving settlement outcomes and correlating the quantity, quality, and scope of corrective actions.

EXCESSIVE FORCE COMMUNITY STUDY

Litigation expenditures related to excessive force cases continue to mount. Force is a necessary component of law enforcement. The Deputies' safety, as well as the safety of the community, depends upon it. By the same token, the trust and confidence of the community hinges upon the proper use of that force. The County Risk Manager and Litigation Cost Manager will jointly retain and commission a consultant to perform a study of the community, with the goal to determine community perceptions and opinions related to the use of excessive force. The information acquired by such study will be utilized to provide the County with a better understanding of how community perceptions impact the County, and the Sheriff Department's options concerning litigation. The information obtained by this study will also be used by County Counsel attorneys, experts, and witnesses to develop appropriate defenses in excessive force cases.